



## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[WC Docket Nos. 18-143, 10-90; FCC 23-32; FR ID 138389]

The Uniendo a Puerto Rico Fund and the Connect USVI Fund, Connect America Fund

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) continues its efforts to bolster mobile and fixed voice and broadband services throughout Puerto Rico and the U.S. Virgin Islands (the Territories) and takes action to ensure support for providers in the Territories to continue strengthening their existing networks.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** For further information, please contact, Nathan Eagan, Telecommunications Access Policy Division, Wireline Competition Bureau, at [Nathan.Eagan@fcc.gov](mailto:Nathan.Eagan@fcc.gov) or 202-418-7400.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order in WC Docket Nos. 18-143 and 10-90; FCC 23-32, adopted and released on April 19, 2023. Due to the COVID-19 pandemic, the Commission's headquarters will be closed to the general public until further notice. The full text of this document is available at the following Internet address:

<https://docs.fcc.gov/public/attachments/FCC-23-32A1.pdf>.

## I. INTRODUCTION

1. In the Report and Order, the Commission continues its efforts to bolster mobile and fixed voice and broadband services throughout the Territories. In the aftermath of Hurricanes Maria and Irma in 2017, the Commission committed to ensuring the restoration, hardening, and expansion of advanced telecommunications networks in the Territories by creating the Bringing Puerto Rico Together Fund (PR Fund) and the Connect USVI Fund. As part of these efforts, the Commission adopted a plan to support state-of-the-art mobile wireless networks in the Territories, including the 5G services being deployed

nationwide, and adopted a single-round competitive process to award fixed broadband support tied to defined broadband deployment obligations. Without Commission action, the support that mobile and incumbent fixed providers receive through these Funds will end by June 2023. The recent devastation caused by Hurricane Fiona in Puerto Rico, however, demonstrates the continued need for support to restore, harden, and expand critical communications infrastructure in areas prone to hurricanes.

2. The Commission takes action to ensure support for providers in the Territories to continue strengthening their existing networks. First, the Commission extends the PR Fund and the Connect USVI Fund mobile support for up to two years, with support at 50% of its current monthly support level in the first year and 25% of its current monthly support level in the second year. The Commission also extends phase-down frozen support for fixed voice and broadband providers until December 31, 2025. The Commission's actions enable providers in the Territories to strengthen and harden mobile networks and make existing fixed networks more resilient and redundant while new networks are built.

## **II. REPORT AND ORDER**

3. After a careful review of the record, the Commission adopts many of its proposals from the *Transitional Support FNPRM*, 87 FR 67660, November 9, 2022. For mobile service, the Commission adopts a transitional support period of up to 24 months, which will allow support recipients to continue to receive support for hardening their networks as the Commission works to develop a long-term funding mechanism. For fixed service, the Commission extends the phase-down of frozen support at its current monthly amount until December 31, 2025. This extension of support will allow those fixed providers to harden their networks and ensure continuous service as new, storm-hardened networks are deployed throughout the Territories.

4. The Commission adopts a transitional support period of up to 24 months for eligible facilities-based mobile carriers currently receiving Stage 2 mobile support. In the *Transitional Support FNPRM*, the Commission sought comment on a number of issues relating to the provision of mobile support: whether transitional support should be provided after the current Stage 2 funding ends; the proper level of transitional support until a long-term funding mechanism is established; the appropriate length of a transitional support schedule; and several other issues.

5. *Transition for Mobile Support.* In the *Transitional Support FNPRM*, the Commission proposed a period of transitional support so carriers currently receiving Stage 2 mobile support would not see their support abruptly end at the conclusion of Stage 2. The Commission also sought comment on whether all facilities-based carriers that receive Stage 2 mobile support should be eligible to receive transitional support.

6. Commenters unanimously supported the Commission's proposal for the provision of transitional support, which it now adopts. The record shows that if the Commission does not provide transitional support after the conclusion of Stage 2, all mobile wireless carriers receiving Stage 2 support would face a sudden, significant loss of support, which could harm their ability to provide service to consumers and endanger critical communications needs. With heightened risk from hurricanes, any lapse in funding, no matter how brief, may undermine progress made in increasing the robustness of existing 4G LTE services and 5G-New Radio (5G-NR) services. The Commission concludes that it is in the public interest to provide transitional support to help carriers strengthen and harden their existing networks and make advanced telecommunications service more resilient. This support will be for a limited period while the Commission develops a long-term funding mechanism for mobile support in the Territories.

7. *Eligibility for Transitional Support.* The Commission limits eligibility for transitional support to the facilities-based providers currently receiving Stage 2 mobile support in a given area. While T-Mobile proposed expanding eligibility to all facilities-based mobile carriers, including those that do not currently receive Stage 2 mobile support in a given area, if the transitional support amount the Commission adopts is lower than existing Stage 2 mobile support, it declines to adopt this proposal. The Commission's goal in providing transitional support is ensuring that the current recipients are able to continue their existing efforts to strengthen their networks until a long-term funding mechanism is established. The Commission believes that eligibility for other potential support recipients is best addressed as part of a long-term funding mechanism. Allowing other carriers to receive transitional support would require additional resources to administer, which would then delay and thwart the goal of this transitional support—to ensure that current support recipients can continue serving consumers without interruption.

8. *Transitional Support Schedule.* The Commission adopts a 24-month transitional support schedule, with support ending before 24 months if a long-term funding mechanism is established. In the *Transitional Support FNPRM*, the Commission proposed a support schedule of up to 24 months—beginning in the month immediately following the conclusion of each eligible carrier’s current Stage 2 mobile support—in order to ensure continuous funding for recipients of Stage 2 mobile support. The Commission also proposed ending transitional support once support is authorized under a long-term funding mechanism, even if such support was authorized before the 24-month period ended. Finally, the Commission sought comment on extending the 24-month schedule if authorizations under a long-term funding mechanism have not occurred by that time.

9. Commenters generally supported the Commission’s proposal of establishing a 24-month transitional support schedule, and having that support end before 24 months if a long-term funding mechanism is established. The Commission now adopts that proposal. Transitional support will extend for 24 months after the end of the current term for Stage 2 mobile support and will end the month after a long-term funding mechanism is established, if such mechanism is established before the 24-month period ends. Specifically, the Commission will deem the long-term funding mechanism established the month after such support is authorized. Furthermore, the Commission emphasizes that no carrier shall receive transitional support and long-term support in the same month.

10. Many commenters supported automatically extending the 24-month schedule if a long-term funding mechanism has not been established by the end of the 24-month schedule. The Commission declines to adopt this proposal. The Commission believes that transitional funding is only meant to have a limited duration. Although PRTC noted that the Commission should act now to permit transitional support to continue until there is a long-term mobile funding mechanism in place in order to conserve public resources and protect against any potential gap in funding, it is not in the public interest to commit to maintaining funding beyond 24 months without the Commission first examining its effects on network hardening and resiliency, or any other changed circumstances in the Territories. The Commission concludes that it will be able to better determine the appropriate support amount in the future once it has been able to evaluate the effectiveness of transitional support, and they therefore decline to extend transitional support beyond its scheduled 24-month period.

11. *Transitional Support Amounts.* In the *Transitional Support FNPRM*, the Commission proposed providing transitional support to all current support recipients in the amount that they currently receive for 5G-NR technologies, meaning that carriers would receive 25% of their current monthly support amount as transitional support for both years of the transitional support period. The Commission tentatively concluded that carriers had rebuilt and hardened their existing 4G-capable networks, and, as a result, less support would be required moving forward as it focused on facilitating the deployment of 5G-NR service.

12. Commenters generally opposed the Commission's proposal to reduce support to 25% of current monthly levels. Commenters argued that the proposed support reduction would leave them unable to sufficiently harden their existing networks, which would ultimately harm consumers. Other commenters argued that reduced support would impair 5G-NR deployment. After careful consideration of the record, the Commission adopts a modified version of its proposal, and will provide transitional support recipients with 50% of their current monthly support level for both 4G LTE and 5G-NR in the first year of transitional support, then 25% of their current monthly support in the second year of transitional support. The Commission believes that these support amounts strike the appropriate balance between managing its limited universal service funding resources and providing sufficient support to ensure that consumers in the Territories receive the benefits of strengthened networks.

13. The Commission disagrees with some commenters who argue that the transitional support amounts should remain the same as the Stage 2 support amounts. When the Commission announced the three-year funding period for Stage 2, it was clear that it would "revisit the amount of support necessary to further expand and/or harden mobile service available in the Territories." As the Commission noted in the *Transitional Support FNRPM*, it had tentatively found that carriers in the Territories will have sufficiently restored and hardened their networks to at least pre-hurricane levels by the conclusion of Stage 2, so the level of transitional support should be lower than the current level of Stage 2 mobile support. While some support recipients argue that they have existing network upgrade plans that will cost more than the transitional support amounts they would receive, the primary goal of Stage 2 mobile support was to help carriers restore their networks to at least their pre-hurricane status and to foster greater access to advanced telecommunications services in the Territories. The Commission

finds those goals have been met. The purpose of transitional support, in contrast, is to seamlessly provide some support that existing support recipients must use to harden mobile wireless networks to protect against future natural disasters. As such, the Commission finds it appropriate to address additional support for 5G-NR deployment through a long-term funding mechanism rather than the transitional support considered here. Accordingly, based on the progress that Stage 2 support recipients have already made, the Commission does not believe that transitional support should continue at its current levels, and it adopts a reduced level of transitional support that will allow recipients to continue to make progress on strengthening and protecting their existing networks.

14. *Appropriate Use of Support.* In the *Transitional Support FNPRM*, the Commission noted its past conclusion that carriers were rapidly investing in 5G-NR service throughout the United States and that mobile customers in the Territories should not receive substandard service. Based on the Commission's observation that carriers are moving toward 5G-NR deployment, it proposed limiting transitional support to "restoring, hardening, or expanding networks with 5G-NR-capable networks, and to end use of this support for 4G LTE." The Commission alternatively sought comment on allowing support recipients to use transitional support to "restore (as necessary), harden, or expand networks with 4G LTE and 5G-NR baseline performance requirements and standards set forth in the *2019 PR USVI Order*, 84 FR 59937, November 7, 2019, or any subsequent standard adopted by [the] Commission."

15. Some commenters supported requiring transitional support to be used on 5G-NR-capable networks; others disagreed, stating that limiting support to 5G-NR networks was too restrictive. Additionally, many commenters asked us to clarify that transitional support could be used on 4G-capable networks if that support would benefit a shared 4G and 5G-NR network. One commenter also proposed a waiver process that would allow transitional support to be used on 4G LTE networks.

16. The Commission concludes that recipients of transitional support must use it to improve the redundancy and resiliency of facilities for 4G LTE or better technologies, including the maintenance of backup power systems for such networks, to help ensure continuity of service by preventing or withstanding damage from natural disasters. While long-term 5G-NR network expansion is important, it is paramount, as Hurricane Fiona reminded us, that networks remain operational during times of natural disaster during this transitional period. To ensure that networks remain operational, ubiquitous hardening

is necessary. Consequently, the Commission determines that transitional support must be used for redundancy and resiliency for any part of the network with 4G LTE or better technologies. Transitional support may be used for either current facilities or for newly built facilities, as the Commission expects carriers will continue network expansion. Furthermore, recognizing the short-term nature of the support but still cognizant of recipients' time needed to plan, the Commission requires all transitional support to be spent within one year of the conclusion of the transitional support period.

17. While the Commission encourages transitional support recipients to use funding for 5G-NR networks, it is also mindful of the short-term nature of transitional support and of the importance of hardened, resilient, and redundant networks. The Commission also notes that some physical infrastructure of 5G-NR-capable networks may be inseparable from the infrastructure of 4G LTE-capable networks, such that an investment in a carrier's network may benefit both 4G LTE- and 5G-NR-capable networks. Limiting transitional support to 5G-NR networks could ultimately end up harming the residents of the Territories who rely on existing 4G LTE and 5G-NR-capable networks. By allowing transitional support recipients to use the support for both 4G LTE and 5G-NR-capable networks, the Commission believes that it will encourage the deployment of 5G-NR service while also ensuring resilient networks.

18. *Eligible Areas.* In the *Transitional Support FNRPM*, the Commission sought comment on continuing to allow support to be used throughout Puerto Rico and the U.S. Virgin Islands. The Commission also sought comment on limiting transitional support to less-populated areas of the Territories based on data from the Broadband Data Collection (BDC), and on whether alternative geographic or population limitations would be appropriate.

19. Commenters unanimously supported allowing transitional support to be used throughout the Territories. The Commission agrees, and does not impose a geographic requirement on where transitional support may be used within each Fund's respective territory. While the Commission is mindful of its obligation to use data from the BDC, it concludes that because they intended for carriers to use transitional support to strengthen and harden existing networks, it would be more appropriate to allow transitional support to be used throughout the Territories. The entirety of these Territories are at risk from hurricanes, so geographically limiting where carriers can spend transitional support could hinder the

benefit the Commission aims to achieve. Additionally, the Commission emphasizes that this final rule only establishes a short-term, transitional funding mechanism. The Commission anticipates that the BDC maps will be an integral and fundamental part of a long-term funding mechanism.

20. *Minimum Service Requirements and Reporting.* The Commission adopts the Stage 2 performance and reporting requirements for carriers receiving transitional support, with a few modifications, consistent with its decisions in this final rule. In the *Transitional Support FNPRM*, the Commission proposed that carriers receiving transitional support “continue to be subject to performance and reporting requirements during the transitional support period.” The Commission sought comment on the specific requirements to adopt and noted that current support recipients must: (1) comply with minimum service requirements for 4G LTE and 5G-NR technologies, (2) file reports and data regarding the use of support for hardening networks and 5G-NR technology deployment, (3) maintain a Disaster Preparation and Response Plan, and (4) perform mandatory reporting using the Disaster Information Reporting System (DIRS).

21. Commenters generally supported the Commission’s proposals, and several commenters stated that the minimum service requirements and reporting requirements for transitional support should remain the same as the current Stage 2 requirements, to minimize disruption as Stage 2 ends. The Commission agrees with these commenters and adopt the Stage 2 performance and reporting requirements for carriers receiving transitional support, with a few modifications to reflect its decisions in this final rule. The Commission will continue to require support recipients to file (1) an annual map reporting the network hardening activities undertaken during the prior calendar year; and (2) a detailed narrative description of the network hardening activities identified and of how it made use of the support to facilitate those network hardening activities. Given that the intended use of the support is to strengthen and harden rather than expand networks, transitional support recipients will not have to file reports detailing their 5G-NR technology deployment. Support recipients also must maintain a Disaster Preparation and Response Plan and perform mandatory DIRS reporting. In addition, carriers will be subject to the same minimum service requirements for 4G LTE and 5G-NR service that currently exist for Stage 2 mobile support.

22. *Minimum Security Reporting and Requirements.* The Commission also requires



transitional support recipients to submit network security reports. In recognition of the importance of network security, in the *Transitional Support FNPRM*, the Commission proposed requiring transitional support recipients to “report and explain the network security controls that [they have] implemented and how they are commensurate with established best practices or an established risk management framework.” In addition, the Commission sought comment on requiring transitional support recipients to “report and explain to the them instances of unauthorized access to their systems and services.”

23. As noted in the *Transitional Support FNPRM*, the “provision of advanced services necessitates a recognition that such services, in order to be effective and available, must be reasonably secure.” All commenters agreed that requiring a report on network security controls is appropriate. Accordingly, the Commission requires transitional support recipients to submit a network security report by August 31, 2023, that identifies and explains the network security controls implemented, their effectiveness in fending off cyberattacks and how those controls are commensurate with established network security best practices and standards or an established risk management framework. A second report will be due by March 31, 2025, and will cover the time period between August 31, 2023 and March 1, 2025. These two reports will allow us to monitor changes and developments during the transitional support term. The Commission notes that commenters disagreed about whether it should require transitional support recipients to report and explain unauthorized network access. While unauthorized access to systems and services is an important issue for networks the Commission supports, it finds the record insufficient to make a determination at this time. Accordingly, the Commission will require transitional support recipients to submit network security reports but not report on unauthorized network access. Due to the inherently sensitive nature of information describing network security, the Commission will treat these reports as presumptively confidential.

24. *Election of Transitional Support.* In the *Transitional Support FNPRM*, the Commission proposed requiring transitional support recipients to affirmatively elect to receive that support. Commenters supported this idea, which the Commission now adopts. The Commission believes requiring recipients to affirmatively elect to receive transitional support will ensure that they understand the specific requirements that come with accepting that support. Accordingly, eligible mobile carriers may elect to receive transitional support from their respective funds through an election process.

25. Carriers shall submit their election letters through the Commission's Electronic Comment Filing System specifically referencing the PR Fund and Connect USVI Docket Number 18-143 and to the Bureau at [ConnectAmerica@fcc.gov](mailto:ConnectAmerica@fcc.gov) within 15 days of the publication of this final rule in the Federal Register. To elect the transitional mobile support, a carrier must submit a letter signed by an officer of the company confirming that the carrier elects the transitional mobile support described in this document and commits to satisfy the specific service obligations and requirements. If a carrier fails to submit any final election letter by the deadline, it will be deemed to have declined the transitional mobile support offer and will no longer continue to receive mobile high-cost support as part of either the PR Fund or the Connect USVI Fund. Carriers submitting election letters will receive an e-mail confirming that their election letters have been received and reviewed for completeness, and should contact the Bureau no later than five business days following the deadline if they have not received such confirmation.

26. As discussed in more detail in this document, as part of the *2019 PR USVI Order*, the Commission adopted a comprehensive long-term funding mechanism for fixed voice and broadband in the Territories via a single-round competitive proposal process (Stage 2 fixed support). Proposals were evaluated based on a series of objective criteria. As part of that funding mechanism, existing frozen support for fixed broadband is being phased down, with frozen support for providers that did not win long-term support in an area currently at 1/3 of their legacy support and scheduled to end by May 2023. Providers authorized for Stage 2 fixed support have their first mandatory service milestone on December 31, 2024.

27. In light of the 19-month gap between the end of existing frozen support for incumbent providers that did not win long-term support in an area and the first deployment obligation for the winners of the competitive proposal process, as well as the ongoing threat of natural disasters, the Commission proposed in the *Transitional Support FNPRM* to freeze the provision of phase-down support at the current 1/3 support level until December 31, 2025, and it sought comment on alternative support schedules and appropriate uses of phase-down support.

28. The Commission adopts its proposal to extend phase-down support frozen at 1/3 of the current support level until December 31, 2025, to avoid leaving incumbent providers that did not win support in an area with insufficient resources to maintain their existing networks until the long-term

support recipients have made substantial progress deploying their networks. Upon examination of the record, the Commission believes that this extension most effectively addresses its concerns about the resilience of existing networks while also protecting limited universal service resources.

29. The Commission agrees with commenters who note the potential for disruption for residents of the Territories, as the long-term support recipients may not be able to broadly provide high-speed service until their networks are more fully deployed, and this could leave residents of the Territories without service. Moreover, consistent storm activity requires that the Territories' networks are resilient and capable of providing service to residents in the event of natural disasters. As commenters note, while significant progress has been made in restoring and hardening the Territories' existing networks, more work remains to be done.

30. The Commission rejects the arguments of legacy providers and the PRTRB that frozen support should be extended beyond the 31-month period it provides. Viya, which supports an extension of frozen support until December 31, 2027, states that when the phase-down ends, it will relinquish its Eligible Telecommunications Carrier (ETC) designation, and many existing consumers could be left without reliable high-speed internet service until Broadband VI fully fulfills its Stage 2 commitments. PRTC, which supports the same extension, argues that terminating frozen support when the competitive support recipient has deployed to 60% of the population of a given area would leave the other 40% of that population at risk of losing access to reliable communications services.

31. The PRTRB argues that extending support is necessary to ensure that no areas are left without service during the transition to competitive support and asserts that, while it is mindful of the Commission's commitment to efficiently target support, the priority during this transition period should be on ensuring service for the most people. Additionally, the PRTRB argues that even if a competitive provider met its deployment obligation before the deadline, phase-down support should not be terminated before its scheduled end date, as the existing physical infrastructure of the incumbent LEC may not have fully depreciated.

32. The Commission is unpersuaded that these arguments justify an extension of phase-down support until December 31, 2027, for several reasons. Notably, PRTC has stated that it will continue to offer service in the areas where it did not win competitive support even after its phase-down support has

ended. Viya, which serves 98% of the locations in the U.S. Virgin Islands, does not explain why the Commission's proposal to provide an additional 31 months of phase-down support to harden its existing network would be insufficient to ensure long-term network resiliency and redundancy and result in the decision to discontinue offering service to existing locations within its already-existing network. Indeed, it makes little sense to immediately cease providing service on a network which will have been hardened with several years of Universal Service Fund (USF) support. While Viya again raises the possibility of relinquishing its ETC designation, as the Commission previously noted, "Viya remains subject to section 214 discontinuance approval obligations and to carrier of last resort requirements which collectively guard against an abrupt loss of service." Given the record before the Commission, it is not convinced that customers in Puerto Rico and the U.S. Virgin Islands will face a significant risk of losing service once phase-down support ends. Because it would make sense for the incumbent carriers to continue offering service in the areas where they previously received phase-down support and continue to invest in their existing networks, the Commission believes that it would also make sense for them to continue to ensure that they have a sufficiently resilient network in those same areas in order to continue offering voice and broadband service even after phase-down support ends.

33. The Commission also rejects the arguments of Liberty, which won competitive support in both Puerto Rico (as Liberty Communications PR) and the U.S. Virgin Islands (as Broadband VI) that phase-down support should not be extended at all beyond the current May 2023 deadline. Liberty argues that extending phase-down support would be wasteful and that it would be unfair to Liberty, which relied upon the scheduled phase-out of frozen support when it calculated its competitive bids. Liberty also states that extending phase-down support would provide the incumbent LECs that did not win support in a given area with significant funding without any buildout requirements, which would put Liberty at a competitive disadvantage. Additionally, Liberty argues that if phase-down support is extended, Liberty should receive support in the areas where it provides service but did not win competitive support, even though it is not the incumbent and has not previously received frozen high-cost support in those areas. Finally, Liberty argues that if the Commission does extend phase-down support, that support should terminate once the competitive support winner has met its 60% deployment obligation, even if that occurs before December 31, 2025. As discussed in this document, while the Commission agrees that extending

support beyond a *necessary* phase-down period would be wasteful, its analysis of the record indicates that the necessary phase-down period is longer than it originally anticipated in the *2019 PR USVI Order*. Hurricanes and other challenges in these insular areas have made it clear that the existing networks in the Territories require further support and an assurance that providers have resources to make their networks resilient and available during future natural disasters while new networks are constructed. Given the Commission’s rationale here and the record, the current level of Liberty’s deployment, while noted, is ultimately of limited consequence to the Commission’s decision to extend the phase-down support for purposes of more storm-resistant networks.

34. Furthermore, to the extent that Liberty relied on its revenue projections on phase-down support ending in May 2023, it did so despite the Commission’s reminder that “pending and future judicial proceedings, as well as certain pending and future proceedings before the Commission—including applications, applications for modification, notices of proposed rulemaking, notices of inquiry, petitions for rulemaking, requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal objections, and applications for review—may relate to or affect licensees or applicants for support in the Stage 2 Competition.” Because the Commission put Liberty on notice of the possibility that the phase-down support schedule could be modified when it made its proposals, it is unpersuaded that an extension of the support schedule causes unfair harm.

35. Liberty also asserts that extending phase-down support would result in “competitive harm” because it provides the incumbent LECs that did not win support with more money than Liberty will receive as the competitive support winner. The Commission disagrees. As discussed in this document, Liberty was on notice that modification of the phase-down support schedule was a possibility. Also as detailed in the following, the phase-down support may only be used on network resiliency and maintenance, and may not be used to deploy service to new areas. To the extent this additional high-cost funding would then allow incumbent LECs to reallocate resources for deployment, the Commission believes that ensuring there are resources for increased hardening and resiliency of existing networks during the construction of new networks outweighs other concerns.

36. The Commission also disagrees with Liberty that if it does extend phase-down support, it should end before December 31, 2025, if the competitive provider meets its 60% deployment obligation

before that date. The Commission believes that recipients of phase-down support have a need for certainty and predictability so they can plan how to use that support to harden their existing networks. Ending phase-down support once the competitive provider has met its 60% deployment obligation, which can occur prior to December 31, 2025, could undermine that certainty, as the recipients of phase-down support would not reasonably know in advance when their phase-down support could end. The Commission distinguishes this from its adoption of the rule to end transitional mobile support upon the implementation of a long-term mobile support mechanism. Any process for adoption of a long-term mobile funding mechanism will provide carriers with ample notice and transparency for carriers to reasonably plan. Conversely, Liberty's proposal to end phase-down support, which is based on the winning applicant's meeting its internal buildout plan for geographic areas, does not provide the predictability and certainty of a specific end date or substantial advance notice.

37. *Appropriate Uses of Phase-Down Support.* The Commission adopts its proposals to limit the use of phase-down support to resiliency and redundancy measures and to require recipients of phase-down support to at least maintain their current footprint for voice and broadband services. The Commission also adopts its proposal to require recipients of additional phase-down support to maintain their Disaster Preparation and Preparedness Plan.

38. Commenters generally supported the Commission's proposal to limit phase-down support to resiliency and redundancy measures and to require recipients of phase-down support to maintain their current footprint for voice and broadband services. Given the importance of services during times of natural disaster and the intended use of the support, the Commission requires phase-down support recipients to maintain a Disaster Preparation and Preparedness Plan and report using the Disaster Information Reporting System. The Commission makes clear that if an eligible mobile provider or incumbent LEC has not previously submitted a Disaster Preparation and Response Plan to the Bureau and was approved to receive Stage 2 mobile or fixed support, an eligible carrier of transitional mobile support or phase-down support must submit such a plan to the Bureau by July 1, 2023. The Commission finds it is in the public interest to permit an eligible carrier to receive transitional mobile support or phase-down support prior to the Bureau's approval of the Disaster Preparation and Response Plan in order to facilitate the seamless hardening of advanced telecommunications networks. Finally, in response to comments, the

Commission clarifies that phase-down support may be used on maintenance of existing networks as well as backup power to ensure continuity of voice and broadband service because maintenance of the network backup power inherently aids resiliency.

39. *Oversight and Reporting for Phase-Down Support Recipients.* In order to provide oversight and prevent waste, fraud, and abuse, the Commission adopts its proposal to subject phase-down support recipients to ongoing oversight from the Commission and the Universal Service Administrative Company (USAC) by adding new requirements. Specifically, the Commission requires each phase-down support recipient to “submit a spending plan for its use of phase-down support for redundancy and resiliency measures to the Bureau for approval,” by July 1, 2023, and, at the end of each calendar year, to provide the Commission with a report of how the phase-down support was spent on resiliency and redundancy measures consistent with the Bureau-approved plan, along with a certification pursuant to § 54.313 of the Commission’s rules that the support was used only for authorized purposes. Commenters supported the Commission’s proposal, and it finds that a spending plan will provide an important layer of oversight and help us ensure that the phase-down support is going to its intended purpose. Recognizing the short-term nature of the support but also cognizant of the time that recipients need to plan, the Commission requires all phase-down support to be spent by December 31, 2026, which is one year after the end of the support term. Recipients must submit a final spending report by January 31, 2027, and shall return an amount equal to the unused (i.e., not spent consistently with the approved spending plan) amount of support to USAC within 30 days of December 31, 2026. In addition, recipients of phase-down support will continue to be subject to all current obligations associated with the receipt of high-cost support and designation as an ETC.

### **III. PROCEDURAL MATTERS**

40. *Paperwork Reduction Act Analysis.* As the Commission noted in the *Transitional Support FNPRM*, the rules that it adopts today specifically apply only to the four existing recipients of Stage 2 mobile support and the three existing recipients of phase-down support for fixed services in Puerto Rico and the USVI. Therefore the reporting and recordkeeping requirements adopted in this final rule are imposed on fewer than ten persons and are not subject to the Paperwork Reduction Act.

41. *Final Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980, as

amended (RFA), requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that “the rule will not have a significant economic impact on a substantial number of small entities.” The RFA generally defines “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

42. This final rule provides transitional support for mobile providers in Puerto Rico and the U.S. Virgin Islands, and it extends the provision of phase-down support for fixed voice and broadband providers in the same areas. This final rule makes transitional mobile support available to the mobile providers who already receive Stage 2 support in the Puerto Rico and the U.S. Virgin Islands, and it extends frozen phase-down fixed broadband support to the providers that currently receive it. Four mobile carriers and three fixed providers in Puerto Rico and the U.S. Virgin Islands currently receive Stage 2 mobile support and phase-down support for fixed services, respectively.

43. These rules will not affect more than 7 providers out of the 1,778 providers currently receiving high-cost support. Accordingly, the Commission anticipates that this final rule will not affect a substantial number of carriers, and so it does not anticipate that it will affect a substantial number of small entities. Therefore, the Commission certifies that the requirements of this final rule will not have a significant economic impact on a substantial number of small entities.

44. The Commission will send a copy of the Report and Order, including a copy of the Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act. In addition, the Report and Order and the final certification will be sent to the Chief Counsel for Advocacy of the SBA, and will be published in the *Federal Register*.

45. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the Report and Order to Congress and the Government Accountability Office pursuant to 5



U.S.C. 801(a)(1)(A).

#### **IV. ORDERING CLAUSES**

46. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 1, 2, 4(i), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 214, 254, 303(r), and 403, §§ 1.1 and 1.425 of the Commission's rules, 47 CFR 1.1 and 1.425, that the Report and Order IS ADOPTED.

47. IT IS FURTHER ORDERED that Part 54 of the Commission's rules IS AMENDED as set forth in the following, and that any such rule amendments SHALL BE EFFECTIVE 30 days after publication in the *Federal Register*.

#### **List of Subjects in 47 CFR Part 54**

Communications common carriers, Health facilities, Infants and children, Internet, Libraries, Puerto Rico, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone, Virgin Islands.

FEDERAL COMMUNICATIONS COMMISSION.

**Marlene Dortch,**

*Secretary.*

## Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

### **PART 54 – UNIVERSAL SERVICE**

1. The authority for part 54 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

### **SUBPART D – UNIVERSAL SERVICE SUPPORT FOR HIGH COST AREAS**

2. Amend § 54.313 by revising paragraphs (c) introductory text, (c)(4), and (o), and adding paragraphs (p) and (q) to read as follows:

#### **§ 54.313 Annual reporting requirements for high-cost recipients.**

\* \* \* \* \*

(c) In addition to the information and certifications in paragraph (a) of this section, price cap carriers that receive frozen high-cost support pursuant to § 54.312(a) shall provide:

\* \* \* \* \*

(4) By July 1, 2016 and in subsequent years. A certification that all frozen-high cost support the company received in the previous year was used to build and operate broadband-capable networks used to offer the provider's own retail broadband service in areas substantially unserved by an unsubsidized competitor. Recipients of frozen high-cost support under § 54.1504(b), for annual reports due July 1, 2024, 2025, and 2026, shall certify that such support received after June 1, 2023 was used for resiliency and redundancy measures and to maintain their network footprint for voice and broadband services as of June 1, 2023.

\* \* \* \* \*

(o) Recipients of Uniendo a Puerto Rico Fund or Connect USVI Fund Stage 2 mobile support and recipients of transitional support under § 54.1516 shall certify that they are in compliance with all requirements in this part for receipt of such support to continue.

(p) [Reserved]

(q) Recipients of transitional support under § 54.1516, as part of either the Uniendo a Puerto Rico Fund or Connect USVI Fund shall certify that such support was not used for costs that are (or will be) reimbursed by other sources of support, including Federal or local government aid or insurance reimbursements; and that support was not used for other purposes, such as the retirement of company debt unrelated to eligible expenditures, or other expenses not directly related to network restoration, hardening, and expansion consistent with the framework of the Uniendo a Puerto Rico Fund or Connect USVI Fund, respectively. Recipients of transitional support under § 54.1516 shall certify that they have conducted an annual review of the documentation required by § 54.1515(a) through (c) or § 54.1524, respectively, to determine the need for and to implement changes or revisions to disaster preparation and recovery documentation.

3. Amend § 54.1504 by revising the section heading and paragraph (b) to read as follows:

**§ 54.1504 Term of Stage 2 fixed support, phase-down of legacy fixed support, and reporting obligations for phase-down support recipient.**

\* \* \* \* \*

(b) *Phase-down of legacy support.* Stage 2 of the fixed Uniendo a Puerto Rico Fund and of the fixed Connect USVI Fund shall replace the legacy frozen high-cost support for the Territories. Beginning on a date determined by the Wireline Competition Bureau and announced by public notice following authorization of a winning application, frozen support recipient carriers will receive 2/3 frozen fixed support amortized for the first 12 months following the date announced by public notice; and 1/3 frozen fixed support amortized over the second 12-month period. Beginning June 1, 2023, legacy frozen support recipient carriers that continue receiving phase-down legacy support for use in accordance with applicable rules shall be authorized to continue to receive 1/3 frozen fixed support for the geographic areas in which it was not selected as the winning applicant of the Stage 2 competitive process. The frozen support recipient carriers shall receive a monthly support amount equal to the amortized monthly 1/3 frozen fixed support amount until December 31, 2025, and zero frozen support thereafter.

4. Add §§ 54.1516 through 54.1524 to subpart O to read as follows:

**Subpart O—Uniendo a Puerto Rico Fund and Connect USVI Fund**

**Sec.**

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- 54.1516 Uniendo a Puerto Rico Fund and the Connect USVI Fund—Transitional support for mobile service.
- 54.1517 Transitional support mobile carrier eligibility.
- 54.1518 Appropriate uses of transitional mobile support.
- 54.1519 Geographic area eligible for transitional mobile support.
- 54.1520 Provision of transitional mobile support.
- 54.1521 Transitional mobile support additional annual reporting.
- 54.1522 Security reporting.
- 54.1523 Spending Plans for recipients of legacy frozen phase-down support.
- 54.1524 Disaster preparation and response measures; Disaster Information Reporting System.

**§ 54.1516 Uniendo a Puerto Rico Fund and the Connect USVI Fund—Transitional support for mobile service.**

(a) *Term of support.* Uniendo a Puerto Rico Fund or the Connect USVI Fund transitional mobile support shall be made available to eligible mobile carriers that elect to make a commitment to their eligible service areas for a term of up to 24 months to begin in the month immediately following the end of the carrier's Stage 2 mobile support. The term of support shall end the earlier of either 24 months following a carrier's authorization to begin receiving transitional support or the authorization of support under a long-term funding mechanism subsequently adopted by the Commission providing mobile wireless support in the carrier's respective territory.

(b) *Election of support.* Eligible mobile carriers as provided in § 54.1517 shall have a one-time option to elect to receive transitional mobile support from the Uniendo a Puerto Rico Fund and the Connect USVI Fund for the eligible service area. To participate, an eligible carrier must submit an election to participate within 15 days following publication in the *Federal Register* of the order adopting transitional mobile support of the Uniendo a Puerto Rico Fund and the Connect USVI Fund. Each carrier must submit its election to receive transitional support to the Commission through the Commission's Electronic Comment Filing System as well as by emailing a copy of its election to [ConnectAmerica@fcc.gov](mailto:ConnectAmerica@fcc.gov).

(c) *Support amounts.* An eligible carrier that elects to receive transitional support shall receive a pro rata share of its monthly Stage 2 mobile support as of May 1, 2023. Each eligible carrier may receive 50% of its Stage 2 monthly mobile support amount as of May 1, 2023 in the first 12-month period (months 1-12) of transitional support, and 25% of its current monthly mobile Stage 2 support as if May 1, 2023 in the second 12-month period (months 13-24) of transitional support. However, the provision of

monthly transitional support may end prior to the completion of the 24-month term as provided in subsection (a).

(d) *Return of unused support.* Each eligible mobile carrier that elects to receive transitional support from the Uniendo a Puerto Rico Fund or the USVI Connect Fund will receive monthly installments of its pro rata share of mobile support over the support period provided in subsections (a) and (c). A mobile carrier that fails to use all its eligible transitional mobile support pursuant to section 54.1517 within one year of the end of the support term shall return an amount equal to the unused amount of transitional support to the Administrator within 30 days following the end of the term of support under paragraph (a).

**§ 54.1517 Transitional support mobile carrier eligibility.**

Facilities-based mobile carriers that are recipients of mobile support from Stage 2 as of May 1, 2023 of the Uniendo a Puerto Rico Fund or the Connect USVI Fund shall be eligible to elect and receive transitional mobile support in the areas where they receive Stage 2 support.

**§ 54.1518 Appropriate uses of transitional mobile support.**

Recipients of Uniendo a Puerto Rico and Connect USVI transitional mobile support shall use the support to improve the redundancy and resiliency of facilities for 4G LTE or better technologies to help ensure continuity of service by preventing or withstanding damage from disasters, including the maintenance of backup power systems for such networks.

**§ 54.1519 Geographic area eligible for transitional mobile support.**

Uniendo a Puerto Rico Fund and Connect USVI Fund transitional mobile support may be used for all geographic areas of Puerto Rico or of the U.S. Virgin Islands, respectively, within a recipient's designated eligible telecommunications carrier service area.

**§ 54.1520 Provision of transitional mobile support.**

A recipient of transitional mobile support shall commit to, at a minimum, maintaining its network coverage area as of June 30, 2023, or 100 percent of its network coverage area prior to Hurricanes Maria and Irma as specified by § 54.1514(a), whichever is greater. The recipient shall also commit to provide a minimum level of service that meets or exceeds network levels and at reasonably comparable levels to those services and rates available in urban areas as required by § 54.1521(a).

**§ 54.1521 Transitional mobile support additional annual reporting.**

(a) Each recipient of transitional mobile support shall report and certify, no later than thirty (30) days following the end of the calendar year in which it receives such transitional support, that it has met the requisite mobile transmissions supporting voice and data to and from the network meeting or exceeding the following:

(1) For 4G LTE service, outdoor data transmission rates of at least 10 Mbps download/1 Mbps upload, at least one service plan that includes a data allowance of at least 5 GB that is offered to consumers at a rate that is reasonably comparable to similar service plans offered by mobile wireless providers in urban areas, and latency of 100 milliseconds or less round trip; and

(2) For 5G-NR service, outdoor data transmission rates of at least 35 Mbps download/3 Mbps upload and a plan offered to consumers at a rate that is reasonably comparable to similar service plans offered by mobile wireless providers in urban areas.

(b) Each recipient of transitional mobile support shall submit no later than thirty (30) days following the end of the calendar year an annual map reporting the network hardening activities undertaken during the prior calendar year. The recipient must submit, along with the map, a detailed narrative description of the network hardening activities identified and of how it made use of the support to facilitate those network hardening activities.

(c) Each report shall be submitted to the Office of the Secretary of the Commission through the Electronic Comment Filing System clearly referencing the appropriate docket for the Uniendo a Puerto Rico Fund and the Connect USVI Fund; the Administrator; and the authority in the U.S. Territory, or Tribal governments, as appropriate. All filings and certifications shall also be submitted to the Bureau at [ConnectAmerica@fcc.gov](mailto:ConnectAmerica@fcc.gov).

(d) Recipients of transitional mobile support have a continuing obligation to maintain the accuracy and completeness of the information provided in their reports. All recipients of transitional mobile support shall provide information about any substantial change that may be of decisional significance regarding their eligibility for transitional support and compliance with Uniendo a Puerto Rico Fund and the Connect USVI Fund requirements as an update to their report submitted to the entities listed in paragraph (c) of this section. Such notification of a substantial change, including any reduction in the

network coverage area being served or any failure to comply with any of the transitional support requirements, shall be submitted within ten (10) business days after the reportable event occurs.

(e) In order for a recipient of transitional mobile support to continue to receive transitional mobile support for the second 12-month period, it must submit the reports and certification required by this section by the deadlines set forth above.

#### **§ 54.1522 Security reporting.**

By August 31, 2023, support recipients under § 54.1516 shall file their first network security report that identifies and explains the network security controls implemented, their effectiveness in fending off cybersecurity attacks, and how those controls are commensurate with established network security best practices and standards or an established risk management framework. By March 31, 2025, support recipients under § 54.1516 shall file their second network security report, covering the time period between August 31, 2023, and March 1, 2025, that identifies and explains the network security controls implemented, their effectiveness in fending off cybersecurity attacks and how those controls are commensurate with established network security best practices and standards or an established risk management framework.

#### **§ 54.1523 Spending plans for recipients of legacy frozen phase-down support.**

(a) *Spending plan submissions for phase-down support recipients.* By July 1, 2023, recipients of support under § 54.1504(b) shall submit a spending plan for its use of that support for redundancy, resiliency, and maintenance measures to the Bureau for approval. Phase-down support shall be suspended if a recipient fails to submit a spending plan by the requisite deadline or fails to receive approval from the Bureau. Recipients of support must submit an updated spending plan if the details in their spending plan change.

(b) *Annual reporting requirements for phase-down support recipients.* By January 31, 2024, 2025, and 2026, recipients of support under § 54.1504(b) shall file with the Commission a report of how they spent phase-down support on resiliency and redundancy measures consistent with the approved spending plan approved under paragraph (a).

(c) Recipients of support under § 54.1504(b) that fail to use all such support consistent with the approved spending plan approved under paragraph (a) by December 31, 2026 shall return an amount equal to the unused amount of support to the Administrator within 30 days of December 31, 2026.

(d) By January 31, 2027 recipients of support under § 54.1504(b) shall file with the Commission a final report of how they spent phase-down support on resiliency and redundancy measures consistent with the approved spending plan approved under paragraph (a).

**§ 54.1524 Disaster preparation and response measures; Disaster Information Reporting System.**

(a) Each recipient of support under § 54.1504(b) or § 54.1516 shall maintain a Disaster Preparation and Response Plan document approved by the Bureau for Stage 2 of the Uniendo a Puerto Rico Fund or Connect USVI Fund, as applicable, that describes and commits to the methods and procedures that it will use, during the period in which it receives support under § 54.1516 or § 54.1504(b), to prepare for and respond to disasters in the Territories, including detailed descriptions of methods and processes to strengthen infrastructure; to ensure network diversity; to ensure backup power; to monitor its network; and to prepare for emergencies. If an eligible recipient has not previously submitted a Disaster Preparation and Response Plan that was approved by the Bureau prior to the authorization to receive fixed or mobile support, as applicable, the eligible recipient must submit a Disaster Preparation and Response Plan for Bureau approval by July 1, 2023. Phase-down support shall be suspended if a recipient fails to submit a Disaster Preparation and Response Plan by the requisite deadline or fails to receive approval from the Bureau.

(b) Each recipient of support under § 54.1504(b) or § 54.1516 shall maintain the Disaster Preparation and Response Plan approved by the Bureau for Stage 2 of each funding mechanism that completely and thoroughly address the criteria enumerated in paragraph (a) of this section. Recipients shall materially comply with the representations in the document and shall amend their Disaster Preparation and Response Plan following any material change(s) to internal processes and responsibilities and provide the updated Disaster Preparation and Response Plan to the Bureau within 10 business days following the material change(s).

(c) Each recipient of support under § 54.1504(b) or § 54.1516 shall perform mandatory Disaster Information Reporting System reporting.



(d) A recipient's failure to comply with the requirements of this section may result in the withholding of transitional or phase-down support until the support recipient has cured deficiencies identified by the Bureau.

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